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DEPT FOR USTR TANUJA GARDE AND DAWN SHACKLEFORD

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SUBJECT: PORTUGAL: DEMARCHE ON EC/SWISS POSITIONS ON
GEOGRAPHICAL INDICATIONS, PATENT DISCLOSURE RULES

REF: STATE 104985

¶1. PoleconOff delivered reftel demarche to Antonio Miguel, Director of European Affairs and International Relations, and Maria Pastor, Chief of the Division of Foreign Relations and Cooperation, at the Portuguese Ministry of Agriculture on October 20. PoleconOff clarified the U.S. position regarding the Geographical Indications (GI) Register, extension of GI provisions to other products, and amendment of the TRIPS Agreement, and stressed the importance of focusing on improving market access in the Doha negotiations.

¶2. Miguel said that Portugal understands the U.S. position on GIs but that it is a major issue for Portugal and other EU countries that have a significant number of GIs, including France, Spain, Italy, and Greece. He noted that as the current proposal is already a compromise, far from what Portugal originally wanted, they would not contemplate further change. Miguel acknowledged that the TRIPS Agreement GI provisions were negotiated on the basis of wine and distilled spirits, but that Portugal has cheese, olive oil, prepared meats, fruits such as "pera rocha" (rock pear), and other locally produced products that also need to be protected. As such, Portugal strongly supports extension of GI provisions so that other countries cannot profit from the sale of Portuguese-origin products.

¶3. On the issue of the GI Register, Maria Pastor underscored the need for a mandatory legally-binding register that would protect GIs in every WTO member state and establish common requirements. Pastor dismissed the notion of a voluntary register with no legal effect, saying that it would not have any significance and would serve only as a notification database. Miguel pointed out that Portugal already has an agreement with EU countries to remove automatically GI-protected products from the market if found, and that the EU signed an agreement with Korea last week under which the EU and Korea are obligated to protect designated GIs.

¶4. Regarding Portugal's support for the inclusion of patent disclosure rules in the TRIPS Agreement, Miguel acknowledged that it was a tradeoff that was important for developing countries such as India and Brazil, but not very important for Portugal. Miguel noted that although patent protection is not a problem in the EU, Portugal is sensitive to it because it is similar to the GI principle of protecting a product's origin. Pastor maintained that experience has shown that the current system of protection against bad patents is insufficient, and that patent disclosure rules would create greater transparency in patent registration and promote protection against bad patents.

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